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SURFACE TRANSPORTATION BOARD

CORRECTED DECISION

STB Ex Parte No. 586

ARBITRATION—VARIOUS MATTERS RELATING TO ITS USE
AS AN EFFECTIVE MEANS OF RESOLVING DISPUTES
THAT ARE SUBJECT TO THE BOARD'S JURISDICTION

Decided: October 24, 2001

The Board favors private resolution of disputes where possible, but current law permits arbitration of disputes within the Board's jurisdiction only where the parties agree to use that process. By decision served September 20, 2001, we took steps to improve our existing procedures concerning alternative dispute resolution. We also sought to assist Congress in exploring whether it should require, through legislation, mandatory binding arbitration of small rail rate disputes. Many parties, including Members of Congress, have raised particular concerns about the need for and practicality of alternative forms of relief in these types of cases.

By petition filed October 9, 2001, the National Industrial Transportation League (NITL) asks us to broaden the inquiry to address a broader range of disputes that Congress might wish to subject to arbitration. NITL suggests that public views may be helpful to Congress on whether arbitration should also be required to address disputes about rail classifications, rules and practices; allowances; demurrage; common carrier obligation issues; car service issues; and loss and damage issues that are resolved in the courts.

We focused our mandatory arbitration inquiry on small rate disputes because of the concern that has been expressed to, and by, Members of Congress that the formal complaint process that is now available for those disputes is too complex and too expensive to pursue given the limited amount of traffic involved and, hence, the limited amount of recovery that will be available. We concluded that binding arbitration in this particular area could provide a means for resolving cases for which resolution through adjudication and the prospect of remedial relief have been elusive. We did not expressly go beyond the small rate dispute process because we have processes available to resolve other types of disputes and they are being used.[1]

Our intent in initiating a dialogue on this issue was to develop a record that is focused on the area in which concerns over the process had been principally targeted. We will not, however,

[1] The small rail rate case guidelines that the Board has in place now have never been invoked by parties in a formal proceeding. While rail rate disputes that have been adjudicated under our standard rate guidelines have been complex, the process has not been inappropriate given the large amounts of money involved.

preclude parties from discussing the merits of arbitration in general or suggesting mandatory arbitration as to other issues, nor will we limit the type of dialogue that parties may have about how arbitration ought to work.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This decision is effective on the date served.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary